IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.798 OF 1989

The State of Maharashtra)...Appellant

Versus

Shri Mhamad Ismail M. Sadik Patel)...Respondent

Shri A.R.Patil, A.G.P for the Appellant.

None for the Respondent.

CORAM : ABHAY S. OKA, J.

DATE : JANUARY 11, 2007.

JUDGMENT:

1. Heard the learned A.G.P for the Appellant. None appears for the Respondent. The challenge in this First Appeal is to Judgment and Award dated 31st October, 1988 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in Land Acquisition Reference No.32 of 1986. The acquisition pertains to a land bearing survey No.125, Hissa No.8 situated at village Owe, Taluka Panvel, District Raigad admeasuring 3700 sq meters. The notification under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894) was issued on 03rd February, 1970 notifying the land for public purpose of development of satellite city of

Navi Mumbai. The Award under section 11 of the said Act of 1894 was made on 17th July, 1986. By the impugned Judgment and Award, the learned Trial Judge has fixed the market value at the rate of Rs.8/- per sq meter.

2. The learned A.G.P submitted that no evidence was led by the Respondent of the comparable sale instances. In the absence of any evidence led by the Respondent, there was no justification in enhancing the market value.

3. I have considered the submissions. A Division Bench of this court in the case of Abdul Aziz (First Appeal No.875 of 1985) and other connected matters decided on 16th March, 2000 dealt with a group of Appeals arising out Awards made under section 18 of the said Act of 1894 in respect of agricultural lands situated at various village including village Owe, Taluka Panvel, District Raigad which were acquired for the same public purpose of development of satellite city of Navi Mumbai under notification dated 03rd February, 1970 issued under section 4 of the said Act of 1894. As of today the said decision has attained finality. In paragraph No.10 of the said decision,

the Division Bench has dealt with various lands from village Owe which were situated quite away from the national highway, railway station, gaothan as well as industrial estate. For such lands, the Division Bench fixed market value of Rs.13/- per sq meter and made deduction of 10% on account of development charges. Turning to the facts of the present case, the constituted attorney of the Respondent stepped into witness box and he has described the location of the acquired land. He stated that the acquired land is at the distance of 200 feet from Owe gavthan and about one and half kilometre from national highway. Considering the decision of the Division Bench referred to above, the market value of Rs.8/- fixed by the reference court cannot be said to be on the higher side. There is no error in grant of statutory benefits. There is no merit in the Appeal and same is dismissed with no orders as to costs.

JUDGE